

REMARKS/ARGUMENTS

Claims 1-31 are pending in the present application. All claims were rejected in the Office Action. Claims 2, 16 and 31 have been cancelled. Claims 1, 3, 6, 11, 18, 19 and 21 have been amended. No new matter has been introduced. Re-examination and reconsideration of the pending claims as amended are respectfully requested.

Claim Objections:

Claim 11 was objected to because of an informality. Claim 11 has been amended to recite in part "the at least one proximal element" in order to clarify the claim and overcome the objection.

Claim Rejections Under 35 U.S.C. § 112

Claims 6, 16 and 31 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Claim 6 has been amended to recite in part that the at least one proximal and the at least one distal element "are adapted to atraumatically capture the valve leaflets," thus, the leaflets are not claimed structural elements. In order to expedite prosecution, claims 16 and 31 have been cancelled.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1, 13 and 14 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,562,678 to Booker (hereinafter Booker). Such rejection is overcome as follows.

Claim 1 as currently amended recites in part a capture device detachably connected to the catheter having at least one distal element wherein the at least one distal element has a first position disposed adjacent to the shaft and a second position deployed in an outward direction from the shaft, and at least one proximal element disposed proximal to the at least one distal element, wherein the at least one proximal element has a first position adjacent to the shaft and a second position deployed in an outward direction from the shaft and wherein the

at least one distal element and at least one proximal element are adapted to capture the valve leaflets. Support of this amendment may be found throughout the originally filed application, including for example, Figs. 17C, 53, 58, dependent claims 16 and 31, etc. Therefore, no new matter has been added. Booker fails to teach or suggest all of the limitations of claim 1 as now amended.

Booker describes a retractable closed loop, 30 and a threader, 45 (Abstract). Booker fails to describe or suggest a capture device detachably connected to a catheter, as amended claim 1 now requires. Furthermore, the retractable loop and threader in Booker is for grasping and retrieving an article from within a patient (Abstract). A cardiac valve is not an article that a physician would grasp and retrieve from the human body. Therefore, Booker fails to teach or in any way suggest capturing the valve leaflets as claim 1 requires.

Because a single reference fails to teach, describe or suggest each and every element of claim 1, anticipation under 35 U.S.C. § 102(b) cannot be established. Applicants respectfully request withdrawal of the 35 U.S.C. § 102(b) rejection with respect to independent claim 1 and the dependent claims with depend therefrom.

Claim Rejections Under 35 U.S.C. § 102(e)

Claims 1-12, 15, 17-27 and 30 were rejected under 35 U.S.C. § 102(e) as being anticipated by Allen et al, U.S. Patent No. 6,626,930 (hereinafter Allen). Such rejection is overcome as follows.

Claim 1 as amended now recites in part a capture device detachably connected to the catheter having at least one distal element wherein the at least one distal element has a first position disposed adjacent to the shaft and a second position deployed in an outward direction from the shaft, and at least one proximal element disposed proximal to the at least one distal element, wherein the at least one proximal element has a first position adjacent to the shaft and a second position deployed in an outward direction from the shaft and wherein the at least one distal element and at least one proximal element are adapted to capture the valve leaflets. Support for this amendment has previously been discussed and therefore no new matter has been added. Allen fails to teach or suggest all of the limitations of claim 1 as now amended.

Allen describes an apparatus for the stabilization and fastening of two pieces of tissue (Abstract). Allen does not, describe a capture device detachably connected to a catheter as claim 1 requires. Furthermore, Allen also fails to disclose a capture device having both proximal and distal elements adapted to capture a valve leaflet, with both elements having a first position disposed adjacent to the shaft and a second position deployed in an outward direction from the shaft, as claim 1 also requires.

Claim 18 has similarly been amended to recite in part that the capture device is detachably connected to the catheter and the method includes the step of detaching the capture device from the interventional tool. Claim 18 also recites that the capture device has at least one distal element and at least one proximal element. As discussed above, Allen fails to describe a capture device with all of these limitations.

Because a single reference fails to teach each and every element of claims 1 and 18, anticipation under 35 U.S.C. § 102(e) cannot be established. Applicants respectfully request withdrawal of the 35 U.S.C. § 102(e) rejection with respect to independent claims 1 and 18 and the dependent claims which depend therefrom.

Claim Rejections Under 35 U.S.C. § 103

Claims 28 and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Allen. Such rejection is overcome for the following reasons.

Claims 28 and 29 include the limitations of independent base claim 18. Claim 18 has been amended to recite in part that the capture device is detachably coupled to a catheter and also that the capture device has at least one proximal element and at least one distal element. These limitations are not disclosed in Allen, as was previously discussed. Therefore, because the cited reference fails to teach or suggest all of the claim limitations, *prima facie* obviousness under 35 U.S.C. § 103(a) is not established. Applicants therefore respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of claims 28 and 29 and allowance thereof.

Appl. No. 10/803,444

Amdt. dated March 5, 2007

Reply to Office Action of November 22, 2006

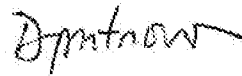
PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Douglas Portnow
Reg. No. 59,660

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
Attachments
D3P:jke
60930104 v1